

AMENDED IN ASSEMBLY MARCH 15, 2010
AMENDED IN ASSEMBLY FEBRUARY 24, 2010
CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1742

Introduced by Assembly Member Coto

February 8, 2010

An act to amend Section ~~56345~~ 56366.10 of the Education Code, relating to special education.

LEGISLATIVE COUNSEL'S DIGEST

AB 1742, as amended, Coto. Education: special education.

Existing law requires a nonpublic, nonsectarian schools that provides special education and related services to an individual with exceptional needs in any of the grades from kindergarten through grade 12 to certify in writing to the Superintendent of Public Instruction that it meets specified requirements, including the requirement that it will not accept a pupil with exceptional needs if it cannot provide the services outlined in the pupil's individualized education program, as specified.

This bill would specify that required standards-based, core curriculum and instructional materials used to provide the special education and related services may include technology-based materials, as specified.

~~Existing law requires individualized education programs for pupils with exceptional needs in grades 7 to 12, inclusive, to include any and all alternative means and modes necessary for the pupil to complete the prescribed course of study of the district and to meet or exceed proficiency standards for graduation.~~

~~This bill would make a clarifying change to that provision to allow pupils to use technology-based materials.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SEC. 2. Section 56366.10 of the Education Code is amended
2 to read:
- 3 56366.10. In addition to the certification requirements set forth
4 in Sections 56366 and 56366.1, a nonpublic, nonsectarian school
5 that provides special education and related services to an individual
6 with exceptional needs shall certify in writing to the Superintendent
7 that it meets all of the following requirements:
- 8 (a) It will not accept a pupil with exceptional needs if it cannot
9 provide or ensure the provision of the services outlined in the
10 pupil's individualized education program.
- 11 (b) Pupils have access to the following educational materials,
12 services, and programs that are consistent with each pupil's
13 individualized education program:
- 14 (1) (A) For kindergarten and grades 1 to 8, inclusive,
15 state-adopted, standards-based, core curriculum and instructional
16 materials, *which may include technology-based materials as*
17 *defined in subdivision (m) of Section 60010.*
- 18 (B) For grades 9 to 12, inclusive, standards-based, core
19 curriculum and instructional materials, *which may include*
20 *technology-based materials as defined in subdivision (m) of Section*
21 *60010*, used by any local educational agency that contracts with
22 the nonpublic, nonsectarian school.
- 23 (2) College preparation courses.
- 24 (3) Extracurricular activities, such as art, sports, music, and
25 academic clubs.
- 26 (4) Career preparation and vocational training, consistent with
27 transition plans pursuant to state and federal law.
- 28 (5) Supplemental assistance, including individual academic
29 tutoring, psychological counseling, and career and college
30 counseling.
- 31 (c) The teachers and staff provide academic instruction and
32 support services to pupils with the goal of integrating pupils into
33 the least restrictive environment pursuant to federal law.

(d) The school has and abides by a written policy for pupil discipline which is consistent with state and federal law and regulations.

SECTION 1. ~~Section 56345 of the Education Code is amended to read:~~

~~56345. (a) The individualized education program is a written statement for each individual with exceptional needs that is developed, reviewed, and revised in accordance with this section, as required by Section 1414(d) of Title 20 of the United States Code, and that includes the following:~~

~~(1) A statement of the individual's present levels of academic achievement and functional performance, including the following:~~

~~(A) The manner in which the disability of the individual affects his or her involvement and progress in the general education curriculum.~~

~~(B) For preschool children, as appropriate, the manner in which the disability affects his or her participation in appropriate activities.~~

~~(C) For individuals with exceptional needs who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives.~~

~~(2) A statement of measurable annual goals, including academic and functional goals, designed to do the following:~~

~~(A) Meet the needs of the individual that result from the disability of the individual to enable the pupil to be involved in and make progress in the general education curriculum.~~

~~(B) Meet each of the other educational needs of the pupil that result from the disability of the individual.~~

~~(3) A description of the manner in which the progress of the pupil toward meeting the annual goals described in paragraph (2) will be measured and when periodic reports on the progress the pupil is making toward meeting the annual goals, such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards, will be provided.~~

~~(4) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the pupil, or on behalf of the pupil, and a statement of the program modifications or supports for school personnel that will be provided to enable the pupil to do the following:~~

1 ~~(A) To advance appropriately toward attaining the annual goals.~~

2 ~~(B) To be involved in and make progress in the general~~
3 ~~education curriculum in accordance with paragraph (1) and to~~
4 ~~participate in extracurricular and other nonacademic activities.~~

5 ~~(C) To be educated and participate with other individuals with~~
6 ~~exceptional needs and nondisabled pupils in the activities described~~
7 ~~in this subdivision.~~

8 ~~(5) An explanation of the extent, if any, to which the pupil will~~
9 ~~not participate with nondisabled pupils in the regular class and in~~
10 ~~the activities described in subparagraph (C) of paragraph (4).~~

11 ~~(6) (A) A statement of individual appropriate accommodations~~
12 ~~that are necessary to measure the academic achievement and~~
13 ~~functional performance of the pupil on state and districtwide~~
14 ~~assessments consistent with Section 1412(a)(16)(A) of Title 20 of~~
15 ~~the United States Code.~~

16 ~~(B) If the individualized education program team determines~~
17 ~~that the pupil shall take an alternate assessment instead of a~~
18 ~~particular state or districtwide assessment of pupil achievement,~~
19 ~~a statement of the following:~~

20 ~~(i) The reason why the pupil cannot participate in the regular~~
21 ~~assessment.~~

22 ~~(ii) The reason why the particular alternate assessment selected~~
23 ~~is appropriate for the pupil.~~

24 ~~(7) The projected date for the beginning of the services and~~
25 ~~modifications described in paragraph (4), and the anticipated~~
26 ~~frequency, location, and duration of those services and~~
27 ~~modifications.~~

28 ~~(8) Beginning not later than the first individualized education~~
29 ~~program to be in effect when the pupil is 16 years of age, or~~
30 ~~younger if determined appropriate by the individualized education~~
31 ~~program team, and updated annually thereafter, the following shall~~
32 ~~be included:~~

33 ~~(A) Appropriate measurable postsecondary goals based upon~~
34 ~~age-appropriate transition assessments related to training,~~
35 ~~education, employment, and where appropriate, independent living~~
36 ~~skills.~~

37 ~~(B) The transition services, as defined in Section 56345.1,~~
38 ~~including courses of study, needed to assist the pupil in reaching~~
39 ~~those goals.~~

1 (b) If appropriate, the individualized education program shall
2 also include, but not be limited to, all of the following:

3 (1) For pupils in grades 7 to 12, inclusive, any alternative means
4 and modes necessary for the pupil to complete the prescribed
5 course of study of the district and to meet or exceed proficiency
6 standards for graduation, including allowing pupils to use
7 technology-based materials as defined in subdivision (m) of Section
8 60010.

9 (2) For individuals whose native language is other than English,
10 linguistically appropriate goals, objectives, programs, and services.

11 (3) Pursuant to Section 300.106 of Title 34 of the Code of
12 Federal Regulations, extended school year services shall be
13 included in the individualized education program and provided to
14 the pupil if the individualized education program team of the pupil
15 determines, on an individual basis, that the services are necessary
16 for the provision of a free appropriate public education to the pupil.

17 (4) Provision for the transition into the regular class program if
18 the pupil is to be transferred from a special class or nonpublic,
19 nonsectarian school into a regular class in a public school for any
20 part of the schoolday, including the following:

21 (A) A description of activities provided to integrate the pupil
22 into the regular education program. The description shall indicate
23 the nature of each activity, and the time spent on the activity each
24 day or week.

25 (B) A description of the activities provided to support the
26 transition of pupils from the special education program into the
27 regular education program.

28 (5) For pupils with low-incidence disabilities, specialized
29 services, materials, and equipment, consistent with guidelines
30 established pursuant to Section 56136.

31 (c) It is the intent of the Legislature in requiring individualized
32 education programs, that the local educational agency is responsible
33 for providing the services delineated in the individualized education
34 program. However, the Legislature recognizes that some pupils
35 shall not meet or exceed the growth projected in the annual goals
36 and objectives of the individualized education program of the
37 pupil.

38 (d) Consistent with Section 56000.5 and Section
39 1414(d)(3)(B)(iv) of Title 20 of the United States Code, it is the
40 intent of the Legislature that, in making a determination of the

1 services that constitute an appropriate education to meet the unique
2 needs of a deaf or hard-of-hearing pupil in the least restrictive
3 environment, the individualized education program team shall
4 consider the related services and program options that provide the
5 pupil with an equal opportunity for communication access. The
6 individualized education program team shall specifically discuss
7 the communication needs of the pupil, consistent with “Deaf
8 Students Education Services Policy Guidance” (57 Fed. Reg. 49274
9 (October 1992)), including all of the following:

10 (1) The pupil’s primary language mode and language, which
11 may include the use of spoken language with or without visual
12 cues, or the use of sign language, or a combination of both.

13 (2) The availability of a sufficient number of age, cognitive,
14 and language peers of similar abilities, which may be met by
15 consolidating services into a local plan areawide program or
16 providing placement pursuant to Section 56361.

17 (3) Appropriate, direct, and ongoing language access to special
18 education teachers and other specialists who are proficient in the
19 pupil’s primary language mode and language consistent with
20 existing law regarding teacher training requirements.

21 (4) Services necessary to ensure communication-accessible
22 academic instructions, school services, and extracurricular activities
23 consistent with the federal Vocational Rehabilitation Act of 1973
24 (29 U.S.C. Sec. 794 et seq.) and the federal Americans with
25 Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.).

26 (5) In accordance with Section 300.113 of Title 34 of the Code
27 of Federal Regulations, each public agency shall ensure that hearing
28 aids worn in school by children with hearing impairments,
29 including deafness, are functioning properly.

30 (6) Subject to paragraph (7), each public agency, pursuant to
31 Section 300.113(b) of Title 34 of the Code of Federal Regulations,
32 shall ensure that external components of surgically implanted
33 medical devices are functioning properly.

34 (7) For a child with a surgically implanted medical device who
35 is receiving special education and a service under Section 56363,
36 a public agency is not responsible for the postsurgical maintenance,
37 programming, or replacement of the medical device that has been
38 surgically implanted, or of an external component of the surgically
39 implanted medical device.

1 ~~(e) State moneys appropriated to districts or local educational~~
2 ~~agencies shall not be used for any additional responsibilities and~~
3 ~~services associated with paragraphs (1) and (2) of subdivision (d);~~
4 ~~including the training of special education teachers and other~~
5 ~~specialists, even if those additional responsibilities or services are~~
6 ~~required pursuant to a judicial or state agency determination. Those~~
7 ~~responsibilities and services shall only be funded by a local~~
8 ~~educational agency as follows:~~

9 ~~(1) The costs of those activities shall be funded from existing~~
10 ~~programs and funding sources.~~

11 ~~(2) Those activities shall be supported by the resources otherwise~~
12 ~~made available to those programs.~~

13 ~~(3) Those activities shall be consistent with Sections 56240 to~~
14 ~~56243, inclusive.~~

15 ~~(f) It is the intent of the Legislature that the communication~~
16 ~~skills of teachers who work with hard-of-hearing and deaf children~~
17 ~~be improved. This section does not remove the discretionary~~
18 ~~authority of the local educational agency in regard to in-service~~
19 ~~activities.~~

20 ~~(g) Beginning not later than one year before the pupil reaches~~
21 ~~18 years of age, a statement that the pupil has been informed of~~
22 ~~the pupil's rights under this part, if any, that will transfer to the~~
23 ~~pupil upon reaching 18 years of age pursuant to Section 56041.5.~~

24 ~~(h) The individualized education program team is not required~~
25 ~~to include information under one component of a pupil's~~
26 ~~individualized education program that is already contained under~~
27 ~~another component of the individualized education program.~~

28 ~~(i) This section does not require that additional information,~~
29 ~~beyond that explicitly required by Section 1414 of Title 20 of the~~
30 ~~United States Code and this part, be included in the individualized~~
31 ~~education program of a pupil.~~